NYNEX Government Affairs
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Kenneth Rust
Director
Federal Regulatory Matters

EX PARTE OR LATE FILED

NYNEX

March 8, 1995

Ex Parte

RECEIVED

MAR 8 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket No 94-1 & DA 93-1537

Dear Mr. Caton:

Today, Don Evans, Frank Gumper, and I, representing the NYNEX Telephone Companies (NTCs), met with John Muleta of the Office of Plans and Policy regarding the items captioned above.

The discussion centered on the NYNEX price cap proposal submitted March 3, and on that subject the NYNEX representatives made presentations using the attached material and responded to questions posed by Mr. Muleta. Some of the aspects of the pending NYNEX Universal Service Preservation Plan (DA 93-1537) were also discussed to the extent noted in the attached.

Any questions on this matter should be directed to me at either the address or the telephone number shown above.

Sincerely,

Ken. Rust

Attachments

cc: J. Muleta

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Director
Federal Regulatory Matters

STAMP + RETURN

NYNEX

March 3, 1995

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Re: CC Docket No 94-1

Dear Mr. Caton:

Attached is a NYNEX filing in the above-referenced docket. The original and a copy of this *ex parte* notice are being filed in the Office of the Secretary. Please include it in the public record of this proceeding.

Respectfully submitted,

Ken. Rust

Attachment

cc: Office of Chairman R. Hundt
Office of Commissioner A. Barrett
Office of Commissioner R. Chong
Office of Commissioner S. Ness
Office of Commissioner J. Quello
K. Wallman
R. Metzger
M. Katz
M. Uretsky
J. Wall

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	

A NYNEX PROPOSAL FOR THE LEC PRICE CAP PLAN

Introduction

In *ex parte* contacts with the FCC on December 28, 1994, January 6, January 13, and January 17, 1995, NYNEX put forth the notion that the elimination of sharing be linked with local exchange competition. NYNEX also advanced this position in its filing on the proposed USTA plan submitted January 31, 1995. The rationale underlying the NYNEX proposal has to do with the benefits that accrue to the public and to participants in a competitive environment. NYNEX herein amplifies its original proposal by providing greater specificity as to how the Commission should encourage local exchange carriers to take on the challenges and reap the benefits of a competitive local exchange marketplace[1]. The steps NYNEX proposes can lead to the creation of a fertile environment for local exchange competition, and the presence of such an environment ought to assure the Commission that the economic infirmities of the price cap sharing mechanism can be dispensed with. The criteria set forth below, when met, will mean that local exchange competition

[1] The structure of the January 18, 1995 USTA proposal suggests that the Commission could impose a high productivity hurdle for LECs wishing to gain the benefits of "pure" price cap regulation, and retain a lower one for LECs unable or unwilling to attempt the challenge of a higher productivity factor. Sprint presents a similar position in its February 2, 1995 *ex parte* in CC. Dkt. No. 94-1. Having a high productivity factor as the basis for the elimination of sharing, however, sends an incorrect public policy message, and ironically allows only those firms with high productivity expectations to opt for a "no sharing" regime that will encourage them to be even more efficient. For firms opting for a higher productivity factor in order to eliminate a sharing obligation, however, becoming more efficient will mean increasing the usage on the network, and such firms will not want to open their markets to local exchange competition -- a fundamental Commission policy objective -- because competition can reduce network usage in the short term.

is truly viable; they will not mean that competition is sufficiently robust to warrant the elimination of all regulation, either under a price caps regime or traditional ROR regulation, but a LEC meeting the criteria will be well on its way to the fully competitive marketplace that warrants limited regulation[2].

Background

The Commission, through a long series of Orders, has taken steps to remove restrictions to competition in interstate markets. It has done this because a competitive market is the best mechanism to control price and prompt companies to deploy modern infrastructure in a rapid manner. These policies can be hindered, however, if restrictions exist to prevent similar competition in intrastate markets[3]. For example, a competitive access provider (CAP) who can use expanded interconnection arrangements only to provide interstate access, because the arrangement is not available in the intrastate jurisdiction, may determine that that geographic area is not an attractive one in which to offer competition to the incumbent LEC. Both the Administration and Congress have expressed positions that support the development of competition in the local telecommunications markets.

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[2] The advantages of a competitive local exchange marketplace have been noted by various parties in this proceeding. The Ad Hoc Telecommunications Users Committee (Ad Hoc), for example, observed that "Because private risk capital and market-based decision making represent the best way to efficiently allocate resources in a market economy, the Commission can most effectively assist in the development of a ubiquitous national information infrastructure by continuing its laudable efforts to promote competition in the local infrastructure." Comments of the Ad Hoc Telecommunications Users Committee in the Matter of Price Caps Performance Review for Local Exchange Carriers (CC. Dkt. No. 94-1), pp.10-11 (May 9, 1994). The advantages of local exchange competition as an impetus toward greater efficiency and infrastructure deployment were stated again by the representatives of the Consumer Federation of America (CFA), Sprint, and Ad Hoc during the large *ex parte* meeting held recently by the Commission on March 1, 1995.

[3] The International Communications Association (ICA) pointed out a similar situation in its Reply Comments in this proceeding. ICA observed, "A significant barrier to competition is the current inability of entrants to offer, or users to buy, combined interstate access and local services due to state-level prohibitions." Reply Comments of the International Communications Association in the Matter of Price Cap Performance Review for Local Exchange Carriers (CC. Dkt. No. 94-1), p. 7, (June 29, 1994)

In a statement before the House Subcommittee on Telecommunications and Finance on May 26, 1994, Chairman Hundt said:

> ... the enormity of the tasks before the Commission is reflected in a number of areas where technology and investment have made change possible. In the common carrier area, for example, the Commission has sought to bring competition to all aspects of telephone service. Its proceedings to provide expanded interconnection access capability go beyond long distance and include local exchange competition. Ensuring the substantial benefits of greater consumer choice, faster deployment of technology, reduced rates, and increased efficiencies on the part of the local exchange carrier require considerable efforts of the agency.[4]

Proposal

NYNEX shares the Chairman's belief that competition provides the greatest incentives for increased efficiency and prompt infrastructure deployment. The strongest argument for the elimination of sharing is also based on the greater incentive for efficiency it brings with it, and so the elimination of sharing combined with a competitive local exchange market can yield twofold public benefits. It is appropriate, therefore, that the Commission link the two by taking steps now to encourage LECs to open up their local exchange markets. To this end, and considering the controversy surrounding the various proposals for establishing an appropriate productivity factor, NYNEX suggests that the Commission retain the present productivity (X) factor (i.e., 2.8% + 0.5% Consumer Productivity Dividend) while it assures itself of the efficacy of the Total Factor Productivity (TFP) approach espoused by USTA . Even while it undertakes the potentially protracted examination required to evaluate the various proposals, including USTA's, it can establish the appropriate incentives for LECs by adopting the "expanding sharing bands" approach put forth below. Once the Commission has had the opportunity to confirm that the USTA position ought to be adopted in establishing the TFP on an on-going basis, it can substitute the new factor but retain the sharing bands concept.

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[4] "Statement of Reed E. Hundt, Chairman, Federal Communications Commission, Before the Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, House of Representatives, Concerning The 1995 Authorization Act For The Federal Communications Commission", p. 4 (May 26, 1994).

NYNEX suggests that the Commission establish in this phase of the price cap review proceeding a series of "sharing bands" around the 11.25% authorized ROR that will allow LECs to retain more of their efficiency gains as each implements certain steps designed to foster and support the growth of local exchange competition in its operating territory. These suggested steps are listed below and summarized in the attached chart.

- The base-line situation assumes that no competition is allowed in states comprising the LEC operating territory, and that no intrastate collocation tariffs have been approved. Under such operating conditions a LEC would have to share 50% of its interstate earnings above 11.75%, and all of its interstate earnings above 13.75%. The LFA threshold would be 10.75%.

- The next sharing/LFA bands would apply when 30% of the access lines in the operating territory are covered by states having approved local exchange competition, the LEC having had tariffs approved to provide unbundled local loops, and the LEC either having had tariffs approved or having made available through contracts intrastate expanded interconnection arrangements and number portability options for use by competitors. Under such conditions a LEC would share 50% of its interstate earnings above 12.25% and all of its interstate earnings above 16.25%, and the LFA threshold would be lowered to 10.25%.

- When 80% of the LEC access lines in its operating territory are affected by the above criteria, a LEC will only have to share 50% of its interstate earnings above a 13.25% level, and all of its interstate earnings above a 18.25% level. At that point the LFA threshold will be at 9.25%.

- In the final stage of moving to "pure" price cap regulation, a LEC will not have to share any of its interstate earnings, and there will be no LFA trigger. The final stage is reached when, in addition to the criteria above having been met, states have authorized competing local exchange carriers (CLECs) to compete against the incumbent LEC, CLECs have been assigned telephone numbers in the same manner as the LEC, mutual compensation arrangements have been negotiated for exchange of traffic between CLEC and LEC networks, and either through tariff or contract the CLEC has available to it arrangements that address interconnection of networks and access to Directory Assistance and E911/911 data bases. In addition, 40% of the business lines or 60% of interstate access revenues (Switched and Special) in the LEC operating territory must be in wire centers in which CLECs provide competition to the LEC through either the use of expanded interconnection arrangements, deployment of facilities, or announced plans to offer service within the geography.

Conclusion

The NYNEX proposal offers two advantages. First, by tying the elimination of sharing directly to efforts to foster and support local exchange competition, the NYNEX proposal provides needed incentives for LECs to accept local exchange competition and achieve the efficiency gains and infrastructure deployment imperatives that accompany it. Second, it eliminates the need to establish immediately a new X factor, which simplifies the Commission's task in sorting through the competing arguments for and against various X factors, while still protecting the public interest.

The Commission should act now to create opportunities for local exchange competition by adopting the NYNEX proposal. If the Commission shares NYNEX's view that the greatest incentives for LEC efficiency gains and infrastructure deployment will come from a fully competitive environment, the NYNEX proposal must be viewed as an innovative solution to the problem of finding a way to prompt LECs with a short term view to see the long term benefits of competition.

Attachment

NYNEX Price Cap Proposal

Productivity Factor	LFA	Sharing Range		Trigger
		50/50	100	
3.3	10.75	11.75 - 13.75	>13.75	
3.3	10.25	12.25 - 16.25	>16.25	30% of Access Lines in Operating Territory meet Criterion 1
3.3	9.25	13.25 - 18.25	>18.25	80% of Access Lines in Operating Territory meet Criterion 1
3.3	None	None		In addition to above, 40% of business lines or 60% of interstate access revenues in Operating Territory meet Criterion 2

Criterion 1

- State Commission removes restrictions preventing local exchange competition.
- LEC has tariffs in place that unbundle and make available to competitors the local loop.
- LEC either has tariffs or makes available through contracts the following:
  - Intrastate use of interstate expanded interconnection arrangement;
  - Number portability options for use by competitors.

Criterion 2

- State commissions have certificated other carriers - competing local exchange carriers (CLECs) - to compete against incumbent LEC.
- CLECs have been assigned telephone numbers in the same manner as the LEC.
- Either through tariff or contract, the CLEC has available arrangements that address:
  - Interconnection of networks
  - Access to directory assistance and E911, 911 database
  - Mutual compensation arrangements for termination of traffic on competing networks.
- CLECs provide competition to the LEC within a wire center through either use of expanded interconnection arrangements, deployment of facilities or announced plans to offer service within the geography.

Sharing and Access Reform: Conflicting Goals

It is generally recognized that the existence of a sharing mechanism in a price cap regime represents a less than optimal situation. The incentives of a firm toward greater efficiency that form the basis of any price cap plan are muted by any requirement to "give back" some of the gains made by the firm, and it is only when the loss of that greater efficiency is more than offset by the need for consumer safeguards that sharing can be justified. Under this situation, one must view sharing, then, as a necessary evil, a consumer safety net in case a productivity factor is set too low and earnings will otherwise rise to immoderate levels because market forces are not present in sufficient amounts to maintain prices at economic costs. In the current review of price caps, the record supports the elimination of sharing. If the Commission decides to retain sharing, however, or eliminate it only through an option involving a higher productivity hurdle, it must also allow for the elimination of sharing through a competitive showing. This paper will examine in brief the implications of a sharing requirement on attempts to reform Access pricing, and under what circumstances this "necessary evil" can and should be eliminated.

Sharing and Competition

The case for a sharing mechanism essentially rests on the absence of vigorous competition in a market. The salutary economic benefits of competition are well known and can be listed, but they amount to no more than an assurance that consumers reap some benefit from the market forces put on firms. Other means exist to create these assurances, and the Commission can employ these less efficient alternatives to market forces if it desires to eliminate the sharing mechanism. The Consumer Productivity Dividend (CPD) is one such mechanism. It exists solely to raise the hurdle over which LECs must pass to realize the advantages of price caps. It is possible, therefore, that some firms could and would accept a yet higher CPD hurdle to gain the greater efficiencies that come with a pure price cap regime. This option, however, is only feasible for firms not yet embroiled in a highly competitive market. This is so because, as competition takes hold in a market, and until market share stabilizes, competition dampens productivity and earnings to a degree that will not allow a firm to overcome any greater hurdle. In such a situation, productivity will decline during a transition period as outputs, i.e., demand and revenues, are eroded more rapidly by competition than most inputs can be reduced, viz., fixed expenses and common overheads cannot in the short term decline as rapidly. In the long term, as corporate downsizing takes effect, market share stabilizes, and a smaller, leaner firm emerges, productivity can increase again; but at that point, however, competition has been firmly established as the regulator of the marketplace. Long before that point is reached, of course, a sharing requirement is unnecessary. The historical results of earnings and demand for NYNEX since the inception of Price Caps suggest that it is in this transition phase, and that the Commission must now consider a means by which carriers like NYNEX, which cannot "afford" to provide the expedient assurances of an inflated CPD, can make a sufficient showing that sharing is no longer necessary based on the existence of competition.

Sharing and Access Reform

Establishing criteria that will allow for the elimination of this "necessary evil" is important to the Commission for two reasons. First, sharing must be eliminated before Access Reform can be implemented, because a necessary part of such reform is the need to remove portions of broad markets from under price cap regulation as competition for services grows and becomes firmly rooted in geographic pockets throughout a serving area. We'll examine this impetus in a moment. The second reason sharing must be eliminated as markets become more competitive has to do with the need to eliminate the lower formula adjustment ((LFA). The LFA cannot be equitably eliminated unless the requirement to share is also done away with, since the two were crafted to provide a balanced approach to protecting consumers from excessive LEC earnings if the X factor was set too low, and, at the other end, protecting LEC stockholders from confiscatory earnings levels if the X factor were set too high.

To elaborate further on this second reason before returning to the first, it should be noted that competition in the transition period will erode earnings, and that earnings can therefore decline to a level that would trigger a LFA, if provisions for one exist. Implementing a LFA would mean that, in areas and services with relatively inelastic demand, competitive losses could be partially recouped by a LEC. Pressure for sustained short term earnings, combined with the essentially inelastic demand of some services in some areas, e.g., residential and small business customers in rural areas, would encourage this unintended abuse of the LFA. The LFA must be eliminated as markets become competitive, and the Commission can only do so by also eliminating sharing.

Returning now to the first reason that sharing should be eliminated, the Commission must envision the patchwork of competitive areas and services that is rapidly forming, and which requires a targeted approach to regulatory relief. The NYNEX Universal Service Preservation Plan (USPP) provides an example of the type of disaggregation that could be useful in differentiating among services and zones within a region, although it is not the only valid approach. The USPP distinguishes between multi-line and single-line customer services, and it establishes three different zones based on the amount of competition that is present in each, with Zone 1 representing the most competitive zone. One would expect that the most competition would be for multi-line customers in Zone 1 (as in fact is the case), and that it would be those services in Zone 1 that would first be granted streamlined regulation because of competition.

With a requirement for sharing still in place, however, and with the Part 69 requirement to allocate costs on a study-area level, no services in *any* zone, no matter how competitive, could be removed from under price caps, because of the need to extract out the associated costs and revenues, and the impossibility of doing so on such a sub-study-area, sub-switch basis. Since telephone switching equipment provides multiple services in each central office (CO), and since only *some* services would be competitive in that CO, an allocation mechanism would have to be developed on a switch-by-switch basis -- essentially an accounting morass. The upcoming tariff filings for Video Dialtone may raise this problem even before any Access Reform efforts are completed.

One possible solution to the cost allocation problem with the sharing requirement in place would be to allow cost allocation below a study-area level, and to remove *all* services in a zone from price cap regulation, once competition in that zone has reached a predetermined level. That would solve the problem of needing to apportion switch costs, but, even apart from the Part 69 changes it would require, it would create a situation in which all services in an area or zone are removed from price cap regulation even though only some customers in that area (e.g., multi-line customers) have competitive alternatives. Another solution might be to treat services removed from under price caps as is done today, viz., assume that revenues equal costs for these services. Such an approach works well enough when the services and associated revenues outside of price caps are quite small. Once major portions of revenues are removed from under price caps, however, the charge could be made that the return from these competitive services is drawing down the overall return and thereby lessening a sharing obligation and allowing less competitive services to absorb and offset the downward pressure on competitive service rates.

The politically more palatable approach of targeting regulatory relief more precisely is possible only with a two-dimensional approach like the one employed in the NYNEX USPP, and that approach requires that there be no requirement for sharing. Fortunately, since both the need for regulatory relief and a case for the elimination of sharing can be based on the presence of competition, an elegant solution is possible in the form of establishing criteria that will allow the Commission to eliminate sharing on a LEC-specific basis, once competitive inroads are sufficient.

Criteria To Be Used

The criteria to be used in assessing whether sharing can be eliminated will no doubt be the subject of much debate, hence, the Commission must begin immediately to consider them. NYNEX suggests that they include both quantitative and qualitative elements, since the latter alone may not provide adequate assurances, and the former are necessarily historical and inequitably dilatory in a time of rapid change in the marketplace. Quantitative data should be based largely on earnings trends, supplemented by demand data, rather than solely on market share, which is difficult for LECs to obtain and in any case is less meaningful when seeking to assess competitive inroads across an entire region. Quantitative data should largely be used to see if competition has formed, whereas qualitative data should be used to confirm that the competition that *has* formed will flourish. In that regard, information on the deployment of competing networks, LEC efforts to promote competition, and the regulatory environment in a region should be key. The showing ought to be that a "substantial portion" of LEC revenues across a region are subject to competitive threats, and that the LEC and regulators in the region have taken actions that allow for robust competition. The qualitative criteria include:

- Are competitors (CLECs) allowed interconnection to points within the LEC network where technically and economically feasible?
- Do CLECs have access, on an unbundled basis, to LEC network functions, services, and information, including databases, signaling, and network routing processes?
- Do CLECs have equal access to poles, conduits, and rights of way?
- Does the LEC integrate competitors' Class 4 and 5 switches into the LEC traffic routing plan through unbundled switching and facility elements at cost-based rates?
- Are CLECs allowed to resell and share unbundled LEC network services?
- Have state and federal franchise restrictions to entry been eliminated, so that any competitor can enter the local exchange market?
- Do CLECs have non-discriminatory access to telephone numbers?
- Do LECs and their competitors compensate each other for terminating traffic on each others' network?
- Have LECs and CLECs established cooperative engineering, operational, maintenance, and administrative practices and procedures?
- Has the LEC taken reasonable efforts to make telephone numbers portable?

Armed with the assurances derived from these quantitative and qualitative data, the Commission would then act to eliminate the sharing requirement for the petitioning LEC. It would still require further, particularized information, if the LEC contended also that some classes of services in certain areas or zones faced demonstrably sufficient competition to warrant having them removed from price cap regulation. The showing for regulatory relief would still rely on a mix of quantitative and qualitative data, but, because of the localized nature of the competition, a heavier reliance could be placed on quantitative data, including market share.

Conclusions

The Commission can and should eliminate the sharing requirement. To address the concerns expressed by some parties in this proceeding, two methods can be developed to allow it to achieve this desirable end: 1) it can impose an additional CPD to insure that LECs with the ability to do so can flow the effects of a greater productivity offset to consumers; 2) it can establish criteria that will provide it assurances that consumers will benefit because competition has developed in a region. In the rapidly evolving environment in which a nationwide, homogenous market no longer exists, and which requires the singling out of individual areas and services ripe for access reform, the Commission must take steps now to allow consumers to gain the benefits of a pure price cap regime and to allow LECs contribute to the growth of the competitive marketplace and to the robust deployment of the Information Age infrastructure.

NYNEX Government Affairs
1300 I Street NW Suite 400 West Washington DC 20005
202-336-7888

Susanne Guyer
Executive Director
Federal Regulatory Policy Issues

STAMP + RETURN

NYNEX

March 3, 1995

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

RE: DA 93-1537, The NYNEX Universal Service Preservation Plan

Dear Mr. Caton:

Yesterday, Mr. F. Gumper and I, representing NYNEX, met with Mr. J. Schlichting, Mr. D. Sieradzki and Mr. D. Slotten of the Policy and Program Planning Division of the Common Carrier Bureau and Mr. C. Lawson of the Office of the General Counsel. The purpose of this meeting was to explore further the competitive nature of the NYNEX operating area. The NYNEX representatives focused on the New York Metropolitan SMSA and the Nassau-Suffolk SMSA. The area covered by New York LATA 132 fits closely within the market area covered by these two SMSAs. The NYNEX representatives provided suggested competitive criteria for use in determining that a particular market area is competitive. Attached are charts of the designated market area and proposed competitive criteria.

The NYNEX representatives also discussed the USPP proposal to deaverage the price of switched access minutes of use by multiline and single line customer categories. In support of this proposal, the NYNEX representatives referred to arguments made in its Petition for Waiver filed on December 15, 1993 and comments filed in this proceeding.

Sincerely,

Susanne Guyer

cc: J. Schlichting
C. Lawson
D. Sieradzki
D. Slotten

Attachments

COMPETITIVE CRITERIA

A market area is considered "competitive" if the following competitive criteria are met:

- State Commission has certificated local exchange carrier status to other carriers, CLECs, to compete against the incumbent LEC.
- CLECs have been assigned telephone exchange numbers (NXX) in the same manner as other LECs.
- Either through tariff or contract, the CLEC has available arrangements that address:
    - Interconnection of networks
    - Directory assistance, white and yellow page directory listings and 911 service
    - Mutual compensation arrangements for termination of traffic on each others' networks.
    - Interim number portability

In addition, 50% or more of the business access lines in the market area are located in wire centers that meet the following criteria:

- CLECs provide competition to the incumbent LEC within a wire center through either the use of expanded interconnection arrangements or the deployment of facilities.
- There currently are buildings located in the wire center that are wired with fiber by a CLEC, a CAP, or other carriers.
- CLECs have fiber facilitates in the wire center or have announced plans to offer service within the wire center. (Note: A wire center that is in the service area of a cable company certified as a CLEC is not categorized as competitive solely because of this fact. The above criteria determine the competitive nature of the wire center.)

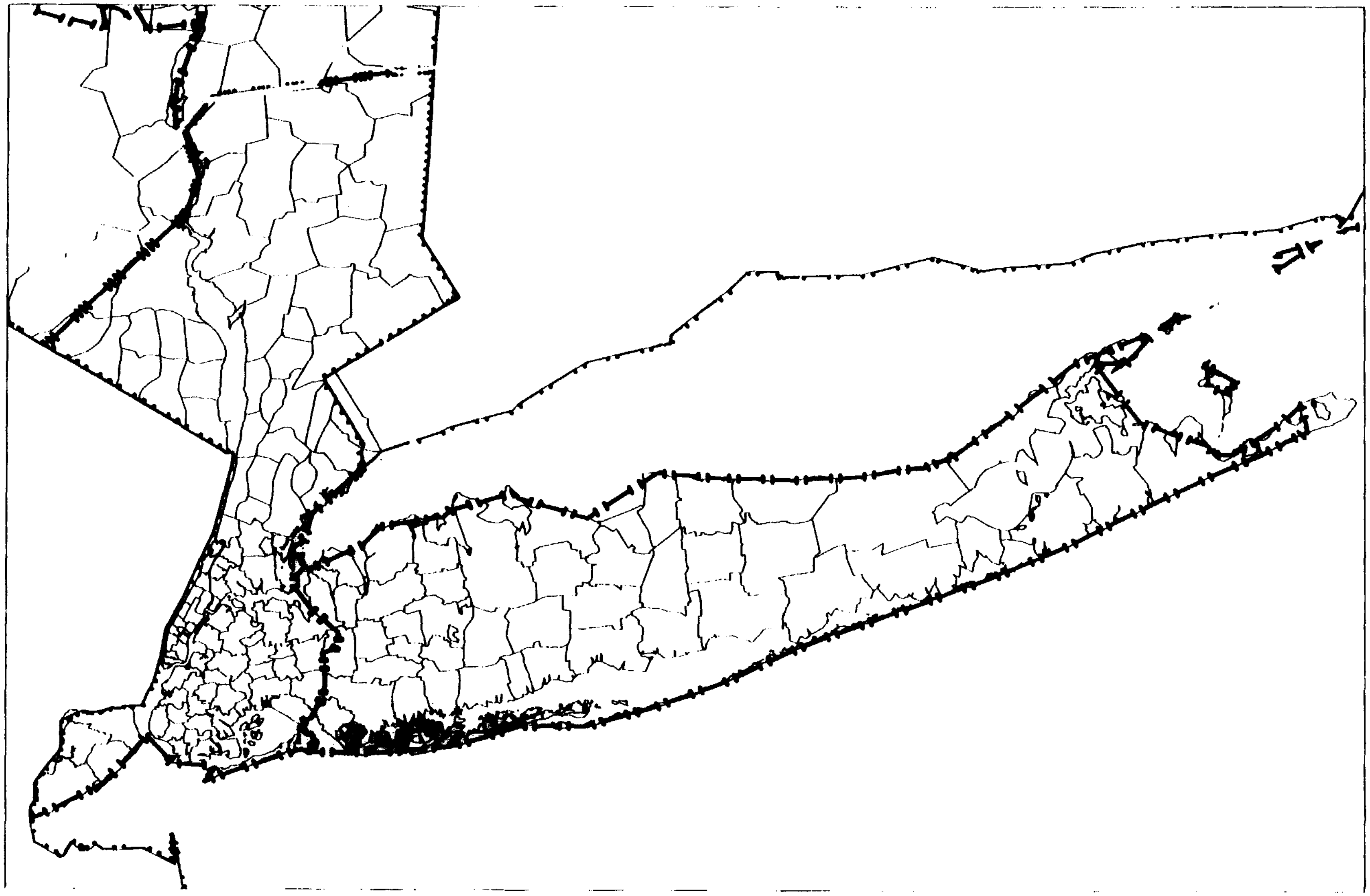
The FCC should find that the New York Metropolitan and Nassau-Suffolk SMSAs are competitive.

- **Over 1.9 million (or over 83%) of the 2.3 million business access lines in these two SMSAs are located in wire centers that are classified as "competitive".**

  71% of the business access lines in the Nassau-Suffolk SMSA are located in competitive wire centers.

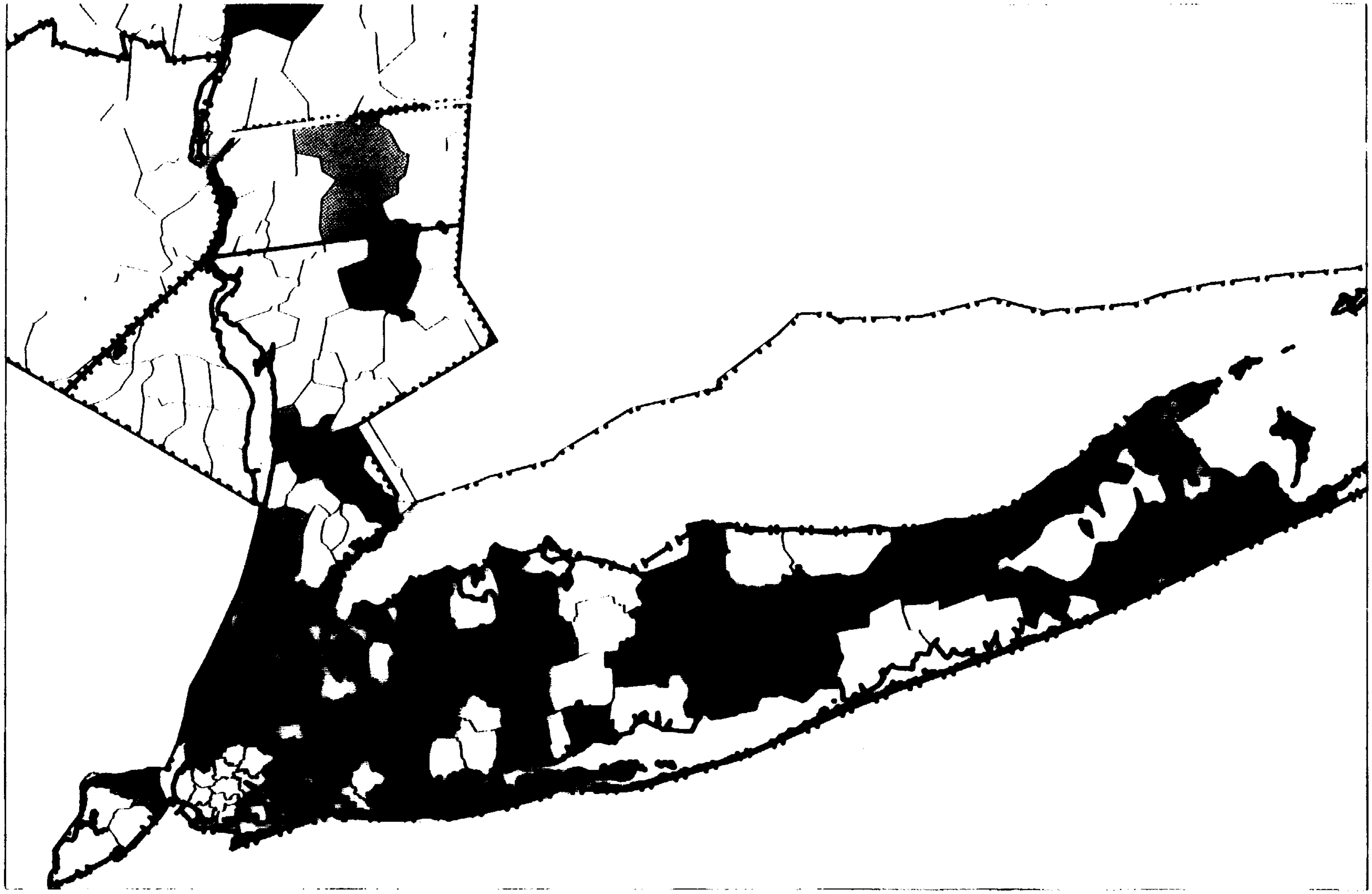
  85% of the business access lines in the New York Metropolitan SMSA are located in competitive wire centers.

NEW YORK METROPOLITAN AREA SMSA AND LATA BOUNDARIES...



SMSA LATA

COMPETITIVE WIRE CENTERS IN NEW YORK CITY METROPOLITAN AREA....



■ ZONE 1 ⊢⊢⊢ SMSA LATA —— COUNTY

■ COMPETITIVE WIRE CENTERS

ZONE AND CLASS OF SERVICE DEAVERAGING OF THE INTERCONNECTION CHARGE IS REASONABLE

The Universal Service Preservation Plan deaverages the Interconnection Charge to reduce the subsidy burden on multiline customers in areas where competitive alternatives exist. Although the Interconnection Charge ("IC") is in the transport basket, it has little to do with the costs of switched transport. Rather, it is primarily a source of subsidy for the fixed costs of providing residential exchange service in the state jursidiction. By reducing the IC for multiline customers in Zone 1 offices in New York State and in the Zone 2 and 3 offices in the New York City SMSAs, the USPP would help retain these customers on the switched network and it would maintain some contribution from these customers to universal service.

It would not be unjustly discriminatory to reduce the IC only for these customers. First, the Zone 1 offices in New York State and the Zone 2 and 3 offices in the New York City SMSAs display a greater competitive presence than other offices. This is shown in the attached chart. Where there is competition, it is much more difficult for NYNEX to collect a subsidy, since customers can avoid the subsidy by seeking a competitive local exchange carrier ("CLEC") that does not need to subsidize residential service. Second, multiline customers have the greatest ability to seek alternatives to avoid this subsidy because it is economic for them to use dedicated transport services to connect their premises directly to the networks of the interexchange carriers. Finally, if NYNEX did not offer lower switched access rates to customers in this area, the customers could obtain the lower prices in any event by seeking the services of the CLECs. Therefore, it is not unreasonably discriminatory for NYNEX to offer these customers the lower rates that the market will inevitably produce.

February 2, 1995

NYNEX MFS AGREEMENT

JANUARY, 1995

OVERVIEW: MFS and NYNEX entered into an agreement on January 24, 1995 which outlined the arrangements that govern how the two competing Local Exchange Carriers (LECs) will interconnect their networks and what terms and conditions will apply.

The agreement consists of the following documents:

- NYNEX's Agreement Outlining the NYNEX Service Offering

  The NYPSC permits NYNEX in accordance with certain guidelines to offer various service arrangements for individual customers under what is known as a Limited Service Offering (LSO) which must then be made available to all similarly situated customers requesting like service arrangements.

- MFS' Agreement Outlining the MFS Service Offering

  This agreement will be similar to that offered by NYNEX, but outlines what MFS will provide and the term and conditions which are similar to those contained in the NYNEX LSO.

- Joint Petition Agreement

  This is a petition submitted jointly by MFS and NYNEX to the NYPSC on February 1 that provides for a waiver of applicable intraLATA CCL rates on local calls interchanged between the MFS and NYNEX networks.

Described below are the key elements of the NYNEX LSO.

I. SERVICE DESCRIPTION:

A. MFS may terminate intraLATA local calls originating from end users on the MFS network to end users on the NYNEX network.
   1. MFS will interconnect via a Feature Group D Access Arrangement.
   2. Common Channel Signaling will be used where available.

B. Interim Number Portability (INP): For those customers electing to leave the NYNEX network for the MFS network and retain their NYNEX phone number the following will apply.

a) NYNEX will redirect incoming calls to these numbers to the MFS network using an MFS designated routing telephone number.

b) These calls will be redirected over existing interconnection trunk group(s) between the NYNEX and the MFS network.

c) INP Provisions include:

(1) End user or MFS as the end user's agent notifies NYNEX to disconnect the NYNEX service and to redirect calls to that number to MFS.

(2) MFS now becomes the customer of record for the original NYNEX telephone number.

(3) If at a later time, the end user customer chooses another competing LEC (CLEC) for service, MFS must notify NYNEX and NYNEX will cancel the INP arrangement for that telephone number.

(4) NYNEX will update its databases for the redirected telephone numbers and cancel all associated calling cards.

(5) A flat rated monthly charge per each redirected INP will be applied. There will be one charge for business and one for residential.

(6) NYNEX will pay applicable interconnection rates (not to exceed the NYNEX rates) to MFS for all traffic delivered to MFS via the INP arrangements, as outlined in the appropriate MFS tariff.

C. Meet Point Billing arrangements will apply for Interexchange Carrier (IXC) calls that route via the Access Tandem as outlined in the industry wide Open Billing Forum (OBF).

1. NYNEX will bill and retain NYNEX tandem routed access revenues collected from the IXC based on that point in the network where NYNEX and MFS hand off the call.

2. Prices:

a) Rates as outlined in the NYNEX state tariffs will apply to the carrier, MFS or other, that delivers the call to the NYNEX access tandem.

b) Interstate rates as outlined in the NYNEX FCC No. 1 Tariff will apply to calls delivered to the NYNEX access tandem. *Please Note:* NYNEX has filed a petition permitting concurrence by MFS in the NYNEX FCC No. 1 Tariff for like services.

c) For the Meet Point Billing Arrangement there will apply (1) a monthly flat rate and (2) a usage sensitive records processing charge.

D. MFS may interconnect to the NYNEX 911 network. A flat rate monthly charge will apply.

E. MFS may deliver calls to Information Services
   1. NYNEX Information Services (i.e., 976/394)
      a) MFS must collect from its end users the applicable rate as outlined in the NYNEX local tariff.
      b) MFS may retain a message processing charge and remit remainder to NYNEX.
      c) MFS may seek approval from NYPSC to charge its end users a different rate than the NYNEX rate. In this case, MFS must still remit to NYNEX the amount due NYNEX as stated in the NYNEX tariff less the message processing charge.
   2. Service Provider Information Service Calls (i.e., 540/970)
      a) NYNEX will bill MFS on behalf of the Information Service Provider at the rates established by the Provider.

F. NYNEX will at MFS' option provide Directory Assistance on behalf of MFS.
   1. MFS will provide and update MFS customer listing information to be included in the NYNEX database.
   2. MFS may select the option of a recorded announcement--MFS' name or NYNEX's.
   3. MFS must abide by the NYPSC privacy rules.
   4. Price:
      a) A $.45 charge per NYNEX branded call to Directory Assistance, $.50 charge per MFS branded call and $.60 charge per MFS branded call with call completion service will apply.
      b) NYNEX will charge MFS a one time per listing charge for inclusion in the NYNEX directory. This includes a white page listing and a yellow page listing for business.

G. An exchange of pertinent data will occur for 800 intraLATA calls.

II. <u>IMPLEMENTATION</u>:

MFS and NYNEX will work cooperatively to develop and implement appropriate network interconnection, management and appropriate controls. An exchange of appropriate information will occur.

III. REGULATORY ACTIVITIES:

A. LSO arrangements.

B. NYNEX will file a tariff for this service with the NYPSC. If the rates and conditions are similar to this agreement, MFS will take the service under the tariff.